

Internal Revenue Service
District Director

Department of the Treasury

Date: NOV 6 1984

Our Letter Dated:
September 21, 1984

Form:
1041

Tax Years:
[REDACTED]

Person to Contact:
[REDACTED]

Contact Telephone Number:
[REDACTED]

On the above date we wrote you about your Form 1023, Application for Recognition of Exemption Under Section 501(c)(3) of the Internal Revenue Code. In that letter we explained why it appeared that you filed your application for tax-exempt status under the wrong Code section. We suggested that you send us a new application under Code section 501(c)(9). To date we have not received the new application or a reply.

We have therefore considered your initial application and propose to deny your request for tax-exempt status as an organization described in Code section 501(c)(3). The enclosed Form 6265, Statement of Proposed Adverse Determination, contains the applicable facts, law, and argument for our determination. Under Code section 6104(c), we will notify the appropriate State officials of this action.

Contributions to your organization are not deductible under Code section 170.

The enclosed Publication 892, Exempt Organization Appeal Procedures for Unagreed Issues, explains your appeal rights. Unless we hear from you within 30 days from this date, this letter will be our final determination.

Section 7428 of the Code provides for bringing a suit for a declaratory judgment in the United States Tax Court, the United States Court of Claims, or the district court of the United States for the District of Columbia with respect to this determination. However, section 7428(b)(2) of the Code provides, in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Court of Claims, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

If you do not exercise your appeal rights, the Internal Revenue Service will consider it as failure to exhaust administrative remedies available to you within the Service. Therefore, you may lose your rights to a declaratory judgment under Code section 7428.

(over)

Letter 1316(DO) (9-79)

You are required to file Federal income tax returns on the form and for the years indicated in the heading of this letter. File these returns with your key District Director for exempt organization matters within 60 days from the date of this letter, unless a request for an extension of time is granted. We will not delay processing of income tax returns and assessment of any taxes due because of your bringing suit for declaratory judgment under Code section 7428. File returns for later tax years with the appropriate service center indicated in the instructions for those returns.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Thank you for your cooperation.

Sincerely yours,

District Director

Enclosures:
Form 6265
Publication 892

Department of the Treasury - Internal Revenue Service
Statement of Proposed Adverse Determination

Name and Address of Organization

[REDACTED]

Date

Date Annual Accounting Period Ends

[REDACTED]

Date Incorporated or Formed

[REDACTED]

Application Form Number

1023

Internal Revenue Code Section

501(c)(3)

Employer Identification Number

[REDACTED]

Purpose of Organization

Providing health and welfare benefits for eligible employees, their families and dependents.

Activities of Organization

Providing dental benefits to members of [REDACTED]
[REDACTED] and their families.

Fact, Law, and Argument

Organization created pursuant to a collective bargaining agreement between [REDACTED] and [REDACTED].

Your income has consisted of employer contributions and investment income. Your expenditures have been for the payment of benefits for members and miscellaneous administrative expenses.

Section 501(c)(3) of the Internal Revenue Code exempts from Federal income tax organizations organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in any political campaign on behalf of any candidate for public office.

(If more space is needed, attach an additional sheet.)

Section 1.501(c)(3)-1(a) of the Income Tax Regulations provides that in order to be exempt as an organization described in section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such section. If an organization fails to meet either the organizational test or the operational test, it is not exempt.

Regulations 1.501(c)(3)-1(d)(1)(ii) provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subdivision, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization or persons controlled, directly or indirectly, by such private interests.

Revenue Ruling 56-138, 1956-1 C.B. 202 provides that a trust created by an employer to pay pensions to retired employees is not exempt as a charitable organization. Payments to retired individuals are not in themselves charitable. In addition, when the trust assumed the burdens of the pension program, it benefited the employer by relieving him of that burden.

Providing health and welfare benefits for eligible employees and their families is not a charitable purpose as described in section 501(c)(3) of the Code. We have determined that you are organized and operated to serve the interests of your members, which is not a public purpose as required by the Regulations.

We conclude that your organization is neither organized nor operated exclusively for charitable purposes within the meanings of section 501(c)(3) of the Code and the Regulations thereunder.